

**STATE OF LOUISIANA
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS
CORRECTIONS SERVICES**

**Policy :
No. B.5.2**

15 August 2001

**INMATE CLASSIFICATION, SENTENCING, AND SERVICE FUNCTIONS
Administrative Remedy Procedure/Disciplinary Process
Imposition of Restitution**

1. **AUTHORITY:** La. R.S. 15:866.2(C), 15:875 (Act 343 of 1986, Acts 103 and 685 of 1993, Act 87 of 1994, and Act 793 of 1995) and 15:874(4) (Act 324 of 1986); Department Regulation Nos. B-09-003 "Inmate Banking," B-09-004 "Indigent Inmates," B-05-001 "Disciplinary Rules and Procedures for Adult Inmates," and B-05-002 "Disciplinary Rules and Procedures for Juvenile Offenders."
2. **PURPOSE:** To identify and define parameters that establish inmate restitution as part of the disciplinary process.
3. **APPLICABILITY:** Undersecretary, Assistant Secretaries, Director of Probation and Parole-Adult and Juvenile, and all Wardens. The Wardens are responsible for implementing this regulation and advising inmates and affected employees of its contents. The Director of Probation and Parole-Adult shall oversee implementation in the community rehabilitation centers. The Director of Probation and Parole-Juvenile shall oversee implementation in the juvenile non-secure facilities.
4. **DEFINITION:**

Inmate--anyone committed to the Department, whether as an adult or juvenile.
5. **POLICY:** It is the Secretary's policy to hold inmates responsible for the financial consequences of their actions by authorizing restitution as part of the inmate disciplinary process. This policy applies to all inmates committed to the Department. All units shall take steps to ensure the uniform and fair application of this policy.
6. **GUIDELINES/PROCEDURES:**
 - A. After an inmate is found guilty of a disciplinary violation through a formal administrative hearing, the Disciplinary Board may order restitution if the inmate has:

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- 1) damaged or destroyed property;
- 2) stolen property which is not recovered or is damaged;
- 3) caused or attempted to cause injury to himself, other inmates, Department personnel or civilians;
- 4) caused a person to lose wages from such injury;
- 5) demonstrated a pattern of falsely alleging injury or illness with the result that medical expenses were incurred;
- 6) escaped or attempted to escape from the Department's custody;
- 7) tested positive for drug use or refused to submit to drug testing.

Violations that could result in restitution include, but are not necessarily limited to, the following:

- Contraband (specifically, a positive reading on a urinalysis test);
- Defiance;
- Aggravated Disobedience;
- Escape;
- Fighting;
- Aggravated Fighting;
- Malingering;
- Property Destruction;
- Self-Mutilation;
- Theft;
- General Prohibitive Behaviors, evaluated on an individual basis.

Note: La. R.S. 15:866.2(C) mandates return of fraudulently obtained property to the victim according to certain procedures. This could apply in certain disciplinary cases. Refer to the statute for necessary procedures.

- B. Whether to impose restitution in individual cases and the amount to impose are decisions left to the discretion of the Disciplinary Board within the context of this regulation. The Board can mitigate by not charging restitution or by charging a small, fixed amount that is less than "actual cost." In no case may the amount of restitution assessed exceed "actual cost."
- C. Any inmate charged with a violation for which restitution may be assessed shall be informed via a written notice on the disciplinary report that he is subject to pay restitution if found guilty. Units are encouraged to preprint the notice on the disciplinary report form.

- D. If the specific amount of restitution cannot be determined in time to be set at the hearing where guilt is determined, the Board shall note on the disciplinary report that restitution will be required and shall inform the inmate what kinds of costs restitution will cover. When the specific amount has been determined through collection of necessary documentary evidence, the Unit Head or his designee shall notify the inmate of the amount. It is not necessary to return the inmate to court for this reason.
- E. When restitution has been imposed, the institution may withdraw from the inmate's accounts the stipulated amount and place it in a "set aside" account pending final disposition of the appeals process. Restitution will be withdrawn first from an inmate's drawing account and then against the savings account if needed.

These provisions specifically include assets sent to a juvenile by his parent or guardian and placed in his drawing or savings account.

- F. Imposition of restitution in any amount is appealable to the Secretary pursuant to the provisions of the inmate disciplinary process. Restitution payments may not be removed permanently from the account of an inmate until all Departmental appeals of the matter are final.
- G. Inmates will be assessed all current funds available in accordance with appropriate statute or regulation and will owe the difference. This amount will be reflected as a debt owed in the appropriate inmate banking account. Deductions will be made from deposits to the inmate's drawing or savings account (as authorized by law) until the debt is satisfied.
- H. Funds collected in the restitution process at state-operated units may be deposited as "Self Generated Revenue" in the unit's budget for the purpose of repairs, maintenance, and general upkeep of facilities or for other lawful purposes. Restitution collected on behalf of civilians and/or law enforcement agencies shall be dispersed according to institutional procedure established by the Unit Head and approved by the Secretary.

If the property damaged or destroyed was purchased by the Inmate Welfare Fund, the Canteen Fund, Prison Enterprises, or other identifiable budget unit, then the restitution collected may be deposited in that fund for the purpose of repair or replacement of the property.

- I. Restitution collected at units operated under private management contracts is the property of the State; however, these units are authorized to spend restitution to repair or replace property that was damaged or destroyed in accordance with the provisions of this regulation. Final invoice/payment documents must be submitted as proof of repair or replacement, (such documents shall be submitted monthly with the information required in Section 7.C.) Otherwise, these funds will be deposited by the Headquarter's general accounting staff as "income not available" in the budget for these units.
- J. Any inmate who is transferred from one facility to another or discharged from the Department shall remain liable for any restitution authorized under this regulation.
- K. This regulation shall not be construed to prohibit or limit the imposition of other disciplinary measures upon an inmate as a result of his actions. Restitution is a separate sentence enhancement and does not interfere with assigning allowable Schedule A or Schedule B penalties.

7. REPORTING OF WITHDRAWALS FROM INMATE ACCOUNTS

- A. The Unit Head or his designee shall make an accounting to the inmate showing each time the inmate's accounts have been debited during the year.
- B. By January 15th of each year the Unit Head shall submit to the Secretary a report detailing the amount withdrawn from each inmate's drawing and savings accounts, the purpose of each withdrawal, and the recipient of the withdrawal, when the recipient was not the Department. The Secretary will transmit this information to the Division of Administration.
- C. Units operated under private management contracts shall also submit a monthly withdrawal report as detailed in Section 7.B.


Richard L. Stalder
Secretary

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This regulation supersedes Department Regulation No. B-05-003 dated 15 October 1998.